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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gerber, J

Examiner: Nguyen, Hoang, M

S.N. 10/762,800

Confirmation No. 5387

Filing Date: 01/22/2004

Art Unit 3748

For: Improved Wave Energy Converter (WEC) Device and System

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION AND
PETITION FOR AN EXTENSION OF TERM FOR RESPONSE

Sir,

In response to the final rejection mailed 02/08/2006, an extension of one month of the term for reply is requested. A check for sixty

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On May 24, 2006

Michael Y. Epstein

Michael Y. Epstein, Reg. 21186

dollars (small entity) for the extension fee is enclosed.

Concerning the pending final rejection, there appears to be an inconsistency in the position taken by the Examiner.

On the one hand, the Examiner notes (on page two) that applicant has pointed out that, in figure 6 of Dick, the float 5 has a smaller draft (then the float 6). The Examiner adopts such statement by explaining that, based upon it, the section 102 rejection should be maintained.

On the other hand, in the actual rejection (page three) under section 102, the Examiner explains that in figure 4 of Dick, the draft of the float 5 is greater than the draft of the float 6.

Clearly, at any given moment, the draft of the float 5 cannot be both smaller and greater than that of the float 6. (The "draft" of a vessel being, as defined in The American Century Dictionary, 1995, Warner Books, the "depth of water needed to float a vessel", hence, at any given time, a fixed quantity.)

But this is exactly the point applicant has been making: namely, that it is not possible to determine the relative drafts of the two floats 5 and 6 in the Dick patent. Also, contrary to the Examiner's assertion on page 2 of the rejection that the applicant has pointed out that the float 5 has the smaller draft, the fact is that applicant, at the top of page 3 of the response, expresses the opinion that the two floats of Dick have identical drafts.

The issue thus remains concerning what is actually disclosed by Dick. This being the case, it is respectfully submitted that the Examiner has not sustained his burden of proof of providing support